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Letter dated 5 March 2009 from the Permanent Representative of Mauritius to the United Nations addressed to the President of the General Assembly

I have the honour to forward herewith the voluntary pledges and commitments of the Government of the Republic of Mauritius to the promotion and protection of human rights in accordance with resolution 60/251 in respect of the candidature of the Republic of Mauritius for re-election to the United Nations Human Rights Council.

(*Signed*) Somduth **Soborun**
Ambassador
Permanent Representative

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Annex to the letter dated 5 March 2009 from the Permanent Representative of Mauritius to the United Nations addressed to the President of the General Assembly

Updated voluntary pledges and commitments

This document has been prepared in accordance with General Assembly resolution 60/251 in the context of the candidature of Mauritius for re-election to the Human Rights Council for the period 2009-2012.

1. The Republic of Mauritius has always been committed to the promotion and protection of human rights at the national, regional and international levels. The Government of Mauritius strongly believes that citizens should be at the core of all forms of human rights, including the right to economic, cultural and social development and that the people should enjoy all their political and civil rights indiscriminately and irrespective of their status.

2. Mauritius is party to the major international human rights instruments. It has enacted comprehensive legislation for the protection and promotion of human rights and fundamental freedoms and ensures their implementation.

National level

3. The respect for and protection of human rights is enshrined in the Constitution of Mauritius. Since its independence, the Republic of Mauritius has been deeply committed to building a society based on democracy, good governance, rule of law, and protection of human rights and fundamental freedoms.

(a) National Human Rights Commission

4. The National Human Rights Commission was set up in April 2001 under the Protection of Human Rights Act in line with the United Nations guidelines governing such institutions. It mainly enquires into any written complaints from any person alleging that any of his human rights has been, is being or is likely to be violated by the act or omission of any other person acting in the performance of the functions of any public office or any public body. It can equally enquire into any other written complaint from any person against an act or omission of a member of the police force. The National Human Rights Commission may, of its own motion, enquire where it has reason to believe that the act or omission is occurring or likely to occur.

5. In 2003, a Sex Discrimination Division was created within the National Human Rights Commission under the Sex Discrimination Act to deal with cases of sex discrimination and sexual harassment, including those cases in the private sector.

6. Amendments to the Protection of Human Rights Act are being contemplated with regard to the structure and composition of the National Human Rights Commission.

(b) The Judiciary

7. The Government of Mauritius is committed to making or supporting far-reaching reforms to the judicial sector with a view to improving the delivery of justice, as per the recommendations made by the Presidential Commission chaired by Lord Mackay of Clashfern. Amendments are to be made to the Constitution shortly to provide for a separate Court of Appeal and a first instance Court within the Supreme Court of Mauritius. Since January 2008, two Judges have been hearing criminal cases and two others have been hearing family law cases on a full-time basis with a view to clearing the backlog. As from January 2009, two Judges are hearing commercial cases on a full-time basis.

8. The Judicial Committee of the Privy Council sat for the first time in Mauritius in September 2008, in line with the ongoing reforms to the judicial system aimed at providing better access to justice to citizens of Mauritius.

(c) Office of the Ombudsperson for Children

9. The Office of the Ombudsperson for Children was established under the Ombudsperson for Children Act 2003. The Ombudsperson for Children has the duty of promoting compliance with the Convention on the Rights of the Child and investigating possible violations of the rights of the child.

(d) The Human Rights Centre

10. The Human Rights Centre which was inaugurated in August 2007 aims to be the main platform for the promotion of human rights in Mauritius. The Centre also acts as a channel for information and aims at making the public aware of existing institutions and laws so that they may better avail themselves of such.

11. In addition to its numerous tasks in matters of education and sensitization, the Centre also serves as one of the main human rights forum where:

(i) non-religious groups and associations, clubs and even political parties from all spheres are welcome to organize debates and meetings on human rights related issues;

(ii) foreign visitors in the field of human rights can hold conferences and talks on a regular basis. The members of the United Nations Subcommittee on Prevention of Torture met Mauritian stakeholders for discussions on the premises of the Human Rights Centre;

(iii) proper training can be given to various people from NGOs and trade unions who will in turn assist in empowering citizens at grass-roots level; and

(iv) all year round sessions can be held by local guest speakers, on a voluntary basis, from different spheres of society on different topics in the human rights area.

12. The Human Rights Centre initiates human rights campaigns and the publication of brochures and pamphlets on human rights issues.

13. The main Human Rights Conventions ratified by Mauritius and especially the rights contained therein will be widely disseminated to the general public.

(e) National Action Plan on Human Rights

14. Mauritius is at present finalizing a National Action Plan on Human Rights. This National Action Plan seeks to develop a strong culture of human rights in Mauritius by providing better protection for individuals, creating more effective programmes that enhance the quality of life for all, particularly vulnerable groups, and by improving national harmony. It also aspires to achieve promotion of greater awareness of human rights, both in the general public and in specific sectors. The overarching objective of the National Action Plan is to bring about tangible improvements in the observance of all categories of human rights.

15. The National Action Plan has been developed on the basis of realistic objectives and clear targets and covers a broad range of areas. It includes an overview of the international and national legal framework, a description of the different categories of human rights enjoyed by Mauritians, the role of national institutions and civil society and lays emphasis on the need for human rights education. It describes the actions taken so far in each field and the shortcomings which need to be overcome, and proposes measures to address these shortcomings. The National Action Plan also proposes specific time frames for the achievement of its objectives, with short, medium and long-term implementation of the measures. The provision of a time frame will ensure that those involved in realizing the targets of the Action Plan have a deadline to structure their activities and should ultimately facilitate monitoring and final evaluation.

(f) Legal aid

16. The legal aid system is being reviewed. In this context, proposals have been made by a working committee in a Green paper on legal aid in Mauritius. The Green paper addresses among other issues the new concept of legal aid, the application of legal aid, the eligibility test, the expansion and extension of legal aid services, the establishment of a Legal Aid Board and corporate social responsibility.

(g) Media law

17. The Government of Mauritius intends to review the media landscape and to bring about reform in media law. In this context, Geoffrey Robertson, Q.C., a well-known authority on media law in Commonwealth States, was invited by the Government in May 2008 to advise on the appropriate media framework for the benefit of both the public and the Government. During his visit, he interacted with media organizations and other stakeholders.

(h) Gender

18. Mauritius has developed a National Gender Policy Framework (2008) to provide broad guidelines for the implementation of gender mainstreaming strategies. The Gender Unit within the Ministry of Women's Rights, Child Development and Family Welfare monitors the implementation of gender mainstreaming strategies for the empowerment of women and the promotion of gender equality and equity. It conducts outreach activities at grass-roots level through 15 Women Centres, the National Women's Council, the National Women Entrepreneur Council, the National Women Development Centre and some 1,200 Women's Associations with respect to capacity-building, service delivery and sensitization campaigns for the empowerment of women, as well as gender mainstreaming at policy, programming

and output level with Ministries, Departments and other stakeholders in line with the National Gender Policy Framework and the recent reforms geared towards effective public financial management and performance management.

19. As from July 2008, the Gender Unit has been offering technical assistance to three pilot Ministries, namely the Ministry of Education, Culture and Human Resources, the Ministry of Youth & Sports and the Ministry of Labour, Industrial Relations & Employment to help them formulate their sectoral gender policies, so that programmes and performance indicators are gender-responsive and adequately reflected in the budget.

20. Concurrently, the different units of the Ministry of Women's Rights, Child Development and Family Welfare have also been involved in this exercise. The Ministry of Women's Rights, Child Development and Family Welfare and the above-mentioned three pilot Ministries have already finalized their sectoral policies.

21. The Ministry of Women's Rights, Child Development and Family Welfare is now in the process of replicating this exercise in four other Ministries, namely the Ministry of Agro-Industry, Food Production and Security, the Ministry of Finance and Economic Empowerment, the Ministry of Civil Service and Administrative Reforms and the Ministry of Social Security, National Solidarity and Senior Citizens Welfare & Reform Institutions.

(i) Legislative measures

22. **The Protection from Domestic Violence Act** which was enacted in 1997 and amended in 2004 and 2007 affords protection to the spouse of, as well as other persons living under the same roof as, a violent person. The Act provides for the issue of protection orders, occupation orders and tenancy orders by a Magistrate and affords protection against physical, emotional, sexual violence and even threatened violence. A person who has wilfully failed to comply with an order made under the Act may, in appropriate cases, be ordered to attend counselling sessions.

23. **The Protection of Elderly Persons Act 2006** provides for the protection of the elderly against abuse; persons who wilfully subject elderly persons to ill-treatment or wilfully fail to provide elderly persons under their care with adequate food, medical attention, shelter and clothing are liable to be prosecuted. The Welfare and Elderly Persons' Protection Unit of the Ministry of Social Security, National Solidarity and Senior Citizens Welfare & Reform Institutions organizes public awareness and sensitization campaigns on elderly persons' rights, receives complaints from elderly persons in need of protection and may apply to the Court for a protection order on their behalf.

24. **The HIV and AIDS Act** which was passed in 2006 provides for a rights-based approach to HIV and AIDS-related issues, and aims in particular at protecting persons living with HIV and AIDS from discrimination. One of the objects of the Act is to respond to the escalating HIV/AIDS epidemic being witnessed in Mauritius through enhanced HIV prevention programmes and scaled up national mechanisms for voluntary counselling and testing. Provision is made for the introduction of risk minimization interventions, namely the Needle Exchange Programme. The Civil Status Act was amended in order to allow marriages between a Mauritian citizen and a non-citizen who is HIV positive or has AIDS.

25. **The Truth and Justice Commission Act** which was passed in August 2008 provides for the setting up of the Truth and Justice Commission. The mandate of the Commission is to conduct inquiries into slavery and indentured labour during the colonial period in Mauritius, determine appropriate measures to be extended to descendants of slaves and indentured labourers, enquire into complaints made by persons aggrieved by dispossession or prescription of any land in which they claim to have an interest and prepare a comprehensive report of its activities and findings based on factual and objective information and evidence. The Commission is expected to complete its assignment and submit its report within 24 months from the start of its operations.

26. In order to reform the industrial relations framework, promote effective tripartism and strengthen dialogue with social partners, a **new Employment Relations Act** was passed in August 2008. The Act focuses on, inter alia, the protection and enhancement of the democratic rights of workers and trade unions, the simplification of the procedures for registration and recognition of trade unions, the promotion of collective bargaining, the promotion of voluntary settlement and peaceful resolution of disputes, the strengthening of the disputes and conflict resolution procedures and institutions to ensure speedy and effective settlement, the right to strike as a last resort after conciliation and mediation have failed and the building of a productive employment relationship.

27. **The Employment Rights Act** which was passed at the same time aims at achieving the flexibility needed for creating demand for labour, together with security needed to protect the worker as he or she switches between jobs. The object of the Act is to revise and consolidate the law relating to employment, contracts of employment or service, the minimum age for employment, hours of work, payment of remuneration and other basic terms and conditions of employment with a view to ensuring appropriate protection of workers. Both the Employment Relations Bill and the Employment Rights Bill were widely discussed with national stakeholders and experts from the International Labour Organization before they were introduced in the National Assembly.

28. **The Equal Opportunities Act** was passed in December 2008. It prohibits discrimination on grounds of age, caste, colour, creed, ethnic origin, impairment, marital status, place of origin, political opinion, race, sex and sexual orientation in various spheres of activities, namely employment; education; the provision of accommodation, goods, services and other facilities; sports; the disposal of immovable property; companies, partnerships, "sociétés" or registered associations; admission to private clubs and premises open to members of the public. The Act also provides for the establishment of an Equal Opportunities Division within the National Human Rights Commission and an Equal Opportunities Tribunal.

29. **The Judicial Provisions Act** was passed in November 2008. One of the objects of the Act is to abolish fixed sentences and other mandatory sentences and to restore to the Courts their sentencing discretion in respect of all offences.

30. It is also intended to introduce a **Police Complaints Bill** in Parliament shortly. The Bill will provide for the setting up of an independent body which will deal with complaints made against police officers in respect of acts done in the execution of their functions. Consultations were held with the National Human Rights Commission and other stakeholders as well as with experts from the Independent Police Complaints Commission of the United Kingdom, the Office of the United

Nations High Commissioner for Human Rights and the United Nations Office on Drugs and Crime.

31. **A DNA Identification Bill** is currently being fine-tuned in consultation with all stakeholders. With the enactment of this legislation, criminal investigation will be operationally driven with intelligence generated by a DNA Database. The impending DNA Bill will allow the instant search for a match to the DNA fingerprint of each and every known criminal in the land. Appropriate safeguard measures will be taken in the drafting of the legislation to ensure an appropriate balance between the enhancement of security and the need to protect individual liberties.

32. **A Sexual Offences Bill** was referred to a Select Committee in 2007 for further study and consultation. The object of the Bill is to make further and better provision for sexual offences. In that context, a new definition of the offence of rape is provided, new categories of offences of sexual assaults are created in order to cover various acts of sexual perversions committed by offenders and provision is made for decriminalizing of sexual activities among consenting adults.

33. It is proposed to review the **Data Protection Act 2004** to harmonize it with the EU Directives on data protection. The Government held consultative meetings with stakeholders to consider proposed amendments to the Act.

34. Further to the latest recommendations of the Committee on the Rights of the Child, action has been initiated for the drafting of a **Children's Bill** to consolidate the various pieces of legislation covering all aspects of children's rights. Opportunity will be taken to, inter alia, review the law on juvenile justice and prosecution and detention of juveniles.

35. With a view to adopting a holistic approach to the problem of trafficking in persons and clustering the different provisions pertaining to trafficking under a comprehensive legislation, the **Combating of Trafficking in Persons Bill** is being finalized with the assistance of the United Nations Office on Drugs and Crime.

Regional level

36. Mauritius is party to the African Charter on Human and Peoples' Rights, the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights and the African Charter on the Rights and Welfare of the Child.

37. Mauritius has also signed the African Charter on Democracy, Elections and Governance and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.

38. Mauritius has acceded to the African Peer Review Mechanism in July 2003 and was among the first countries to start the review process which covers four substantive thematic areas, namely Democracy and Political Governance, Economic Governance and Management, Corporate Governance and Socio-Economic Development. The National Economic and Social Council, an independent body, has been designated as the national focal point to oversee the process in Mauritius. Mauritius is currently finalizing its self-assessment report and is expected to be peer reviewed in the course of 2010.

39. Mauritius recognizes that the fight against poverty, development and human rights are interlinked and mutually reinforcing. It is in this spirit that Mauritius hosted the SADC International Conference on Poverty and Development in April 2008. The Conference agreed, inter alia, to work towards the establishment of a Regional Poverty Observatory to monitor progress made in the implementation of actions in the main priority areas of poverty eradication.

International level

40. Mauritius pursues a policy of active cooperation with international organizations and their respective bodies and institutions in the field of human rights and fundamental freedoms. It is deeply committed to upholding the highest standards in the promotion and protection of human rights.

(a) International commitments

41. Mauritius is party to the major international human rights treaties, namely:

(i) International Convention on the Elimination of All Forms of Racial Discrimination;

(ii) International Covenant on Civil and Political Rights;

(iii) International Covenant on Economic, Social and Cultural Rights;

(iv) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

(v) Convention on the Rights of the Child; and

(vi) Convention on the Elimination of All Forms of Discrimination against Women.

42. Mauritius has withdrawn its reservation to article 22 of the Convention on the Rights of the Child following the concluding observations of the Committee on the Rights of the Child.

43. Mauritius ratified on 31 October 2008 the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women and on 12 February 2009 the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

44. Mauritius, which became a party to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 2005, was chosen, by a drawing of lots, as the first country to be reviewed under the Optional Protocol. It received the visit of the Subcommittee on Prevention of Torture from 10 to 18 October 2007.

45. During the course of their visit, members of the Subcommittee visited the Police facilities, Police Detention Centres, prisons and other institutions such as the Rehabilitation Youth Centre at Beau Bassin and the Shelter for Children and Women in Need. A National Preventive Mechanism, as provided for under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, has been set up administratively pending amendments to be brought to existing legislation to establish the legal framework under which the

National Preventive Mechanism is to operate. The Subcommittee submitted its report on its visit in Mauritius in July 2008. A High-Level Committee is looking into the implementation of the findings, observations and recommendations in the report. The **National Preventive Mechanism Bill** is in the process of being finalized.

46. Mauritius signed the Convention on the Rights of Persons with Disabilities on 25 September 2007 and is committed to upholding and applying its provisions. The Government has come up with a Policy Paper and Plan of Action on Disability which contains a series of measures relating to health, education, training, employment, human rights, sports, leisure, transport, communication and accessibility. In this context, an Implementation and Monitoring Committee has been set up to work on the implementation of the recommendations of the Action Plan and early ratification of the Convention.

47. Mauritius is determined to continue to cooperate with the various treaty bodies and to follow up closely on their concluding observations/recommendations.

(b) Membership of the Human Rights Council

48. As a founding member of the Human Rights Council, elected in 2006 for a three-year term, Mauritius has worked with the international community in a spirit of dialogue, cooperation, and objectivity to build the institutional architecture of the Council and also to promote and protect the universal enjoyment of all human rights.

49. It has engaged constructively in the deliberations of the Council, its subsidiary bodies and mechanisms and has supported important initiatives aimed at strengthening the human rights normative framework and addressing human rights challenges. A Mauritian national is also currently serving on the Human Rights Council Advisory Committee.

50. During its membership of the Council, Mauritius has consistently pursued a policy of non-politicization and non-confrontation to help ensure that each human rights issue or situation is addressed in the most effective and efficient manner and in the interest of the victims.

51. At the same time, Mauritius has made every effort to honour the pledges it made in 2006 while seeking membership of the Human Rights Council. It believes that it has lived up to and continues to honour these pledges through the action it has undertaken at domestic and international levels.

52. As a supporter of the United Nations human rights system and in view of its firm commitment to upholding the highest standards of human rights, Mauritius is seeking re-election to the Council to contribute further to the promotion and protection of human rights worldwide.

53. **If re-elected to the Human Rights Council, Mauritius pledges to:**

(i) maintain an active and constructive engagement in the work of the Human Rights Council and its mechanisms as well as continue to play its role as a consensus-builder in norm-setting in the field of human rights;

(ii) remain committed to strengthening the Council to enable it to achieve its aims and objectives;

(iii) fully cooperate with the Universal Periodic Review mechanism as well as United Nations human rights treaty bodies;

(iv) support international efforts to enhance intercultural dialogue and understanding among civilizations, cultures and religions with a view to facilitating the universal respect of all human rights;

(v) continue to uphold the highest standards of human rights and to strengthen the national human rights framework;

(vi) continue to support the Office of the United Nations High Commissioner for Human Rights in its mandate to promote and protect human rights; and

(vii) continue to work with United Nations Member States and relevant bodies for worldwide promotion and protection of human rights based on the principles of cooperation and dialogue.